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REMARKS

Status of the Claims

Claims 1-2, 6-7, and 15-30 were presented for examination. The Examiner rejected claims 1-2, 6-7, 15, 18-23, and 26-30 "under 35 U.S.C. § 103(a) as being unpatentable over Logan et al. (P.N. 5,371,551) in view of Mankovitz (P.N. 5,541,738)." *Final Office Action*, 2. Claims 16-17 and 24-25 were rejected "under 35 U.S.C. § 103(a) as being unpatentable over Logan et al. and Mankovitz . . . and further in view of Yuen et al (P.N. 5,488,409)." *Final Office Action*, 5.

Claims 1 and 6 are amended while claims 18-19 and 26-27 are cancelled without prejudice. Claim 31 is newly added. As explained herein, claims 1 and 6 have been amended to incorporate certain elements of claims 18-19 and 26-27, respectively; as such, no further search is necessitated by this amendment. Claim 31 is a 'computer-readable medium' claim and tracks the elements of claim 1; no further search is necessitated by this newly added claim.

Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected independent claims 1 and 6 under Section 103(a). New claim 31 recites a computer-readable medium that, when executed by a processor, performs a method similar to that of method claim 1. As such, the Applicants presume that the Examiner would render a similar rejection of claim 31 and that new claim 31 does not present new matter or a new issue for consideration.

The Applicants have amended claims 1 and 6 to recite the claim element of 'one or more time shifted-viewing settings' being 'configured via a user interface over a network connection.' This claim element is also recited in newly added claim 31. This particular claim element previously appeared in dependent claims 18-19 and 26-27, which were examined and rejected by the Examiner in the *Final Office Action*. As this claim element has been previously presented, searched, and considered (rejected) by the Examiner, the Applicants contend the amendment and new claim should be entered in that the amendment and new claim require no new search nor further consideration.

The Applicants do contend, however, that the Examiner's rejection of these particular claim elements was in error and, as such, traverses the same. Again, each of the Applicants independent claims recite that one or more time shifted-viewing settings may be configured via a user interface over a network connection. The Examiner rejected this particular claim element, however, arguing that "the feature of the one or more time-shifted viewing settings . . . is present in the proposed combination indicated above." *Final Office Action*, 4. That proposed combination referenced by the Examiner is (presumably) "playback control" comprising "random access playback, stop, pause, rewind and fast-forward." *Final Office Action*, 4. The Applicants respectfully traverse the Examiner's rejection in that 'playback control' differs from the Applicants' claimed 'time-shifted viewing settings.'

As noted in the specification, "[t]he aforementioned network communication channels . . . may be used to automatically set the configuration of the system." *Specification*, 5 (3.11 Network-Controlled Configurability). For example, "the present invention can set parameters such as record timers, video quality settings, channel tuning, and so forth." *Specification*, 5 (3.11 Network-Controlled Configurability). Control of *device settings* such as record timers, video quality and channel tuning through (for example) a Web-based interface over a network connection clearly differs from the aforementioned *playback controls* (e.g., rewind, fast-forward, etc.). Referring again to the specification of the present application, it is noted that VCRs provided viewers with "limited control of the viewing" recorded programs. *Specification*, 1 (1.1

Broadcast, VCRs). "The user could pause, rewind, fast-forward and stop and re-start viewing at any time after the initial recording was complete." *Specification*, 1 (1.1 Broadcast, VCRs).

The Applicants note that "[d]uring patent examination, the pending claims must be 'given their broadest reasonable interpretation consistent with the specification.'" MPEP § 2111 (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000) (emphasis added)). Further, that 'broadest reasonable interpretation' "must also be consistent with the interpretation that those skilled in the art would reach." MPEP § 2111 (citing *In re Cortwright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999)). The Applicants contend that to equate a 'time shifted-viewing setting' of a recording device with a 'playback control' of content recorded on the device is inconsistent not only with the specification but also the interpretation that would be reached by one of ordinary skill in the art.

As such, the Applicants contend that the Examiner's rejection of claim 1, 6, and 31 is overcome in that the cited art of record fails to disclose, at the least, one or more time shifted-viewing settings being configured via a user interface over a network connection. As all the cited limitations in the independent claims are not disclosed, the Applicants contend a *prima facie* case of obviousness has not been established and the independent claims are allowable. See MPEP § 2143.03 (citing *In re Royka*, 490 F.2d 981 (CCPA 1974)). Further, the Applicants note that "[i]f an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious." MPEP § 2143.03 (citing *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). In that regard, any claim depending from claims 1 or 6 (either directly or via an intermediate dependent claim) are also non-obvious and allowable over the Examiner 35 U.S.C. § 103(a) rejection.

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CONCLUSION

The Applicants have overcome the Examiner's 35 U.S.C. § 103(a) rejection in that Logan et al., Mankovitz, and Yuen et al.—either individually or in combination—fail to disclose (at the least) 'one or more time shifted-viewing settings' that may be 'configured via a user interface over a network connection.' For at least this reason, the Applicants contend the application is now in condition for allowance. The Examiner is encouraged to contact the undersigned with any questions concerning the present amendment or the application in general.

Respectfully submitted,
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